

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY - - MARCH 15, 2005 - - 7:30 P.M.

Mayor Johnson convened the Regular Meeting at 7:32 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore, Matarrese, and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

(05-110) Mayor Johnson presented the Resolution Commending Captain Rich McWilliams [paragraph no. 05-112] prior to the Consent Calendar.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(05-111) Proclamation declaring March 2005 as Red Cross Month.

Mayor Johnson read and presented the Proclamation to Jim Franz, American Red Cross.

Mr. Franz stated that the Red Cross has a wonderful partnership with the City; noted that Mayor Johnson accepted the Good Neighbor Award for the City's support of the Red Cross a couple of months ago.

REGULAR AGENDA ITEM

(05-112) Resolution No. 13821, "Commending Alameda Police Department Captain Rich McWilliams for His Contributions to the City of Alameda." Adopted.

Mayor Johnson read and presented the Resolution to Captain Rich McWilliams.

Captain McWilliams thanked the Council for the kind words; stated that it has been a pleasure to work for the City.

Councilmember Matarrese moved adoption of the Resolution.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

CONSENT CALENDAR

Mayor Johnson announced that the recommendation to adopt Zoning

Ordinance Text Amendment ZA03-0003 [paragraph no. [05-115] was removed from the Consent Calendar for discussion.

Vice Mayor Gilmore moved approval of the remainder of the Consent Calendar.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*05-113) Minutes of the Special City Council Meeting, the Special Joint City Council and Housing Authority Board of Commissioners Meeting, and Regular City Council Meeting held on March 1, 2005. Approved.

(*05-114) Ratified bills in the amount of \$6,660,114.93.

(05-115) Recommendation to adopt Zoning Ordinance Text Amendment, ZA03-0003, Citywide Guide to Residential Design.

Richard W. Rutter, Alameda, stated that the guidelines are a good tool for the public and staff to utilize; urged adoption.

Elizabeth Krase, Alameda Architectural Preservation Society (AAPS), stated that the guidelines are long overdue; urged adoption.

Kevin Frederick, AAPS, urged adoption of the guidelines.

Janelle Spatz, AAPS, stated that AAPS supports and encourages adoption of the guidelines.

Ross Dileo, Alameda, urged endorsement of the guidelines.

Christopher Buckley, AAPS, urged adoption of the guidelines.

Denise Brady, AAPS, stated that the guidelines have been in the works for a very long time; urged adoption.

Councilmember Daysog moved approval of the staff recommendation.

Councilmember deHaan seconded the motion.

Under discussion, Councilmember Matarrese thanked staff for developing the guidelines; stated the guidelines are very comprehensive and provide some good guidance; noted that the window section of the guidelines prohibits use of aluminum windows; stated

certain materials should not be prohibited as technology and materials progress; the focus should be on the design and appearance criteria, not the material.

The Supervising Planner stated that a new fiberglass window has been manufactured which is superior to the wood clad windows in many ways; the guidelines are intended to be a living document and can be amended; staff is recommending adoption of the guidelines for a year.

Vice Mayor Gilmore thanked staff and the community for the time, energy, and effort given to the guidelines; stated that the guideline pictures are useful for understanding what is and is not permitted.

The Supervising Planner thanked AAPS for all of their input.

Mayor Johnson stated that staff was working on the guidelines when she was on the Planning Board years ago; stated a voice vote, rather than ordinance, is a good process.

On the call for the question, the motion carried by unanimous voice vote - 5.

(*05-116) Recommendation to authorize the Mayor, City Manager and/or Designee to send letters opposing the proposed suspension of mandated cost reimbursements. Accepted.

(*05-117) Resolution No. 13822, "Upholding the Planning Board's Decision to Readopt ZA04-0002 to the Webster Street Design Guidelines, Known Henceforth as the Webster Street Design Manual." Adopted.

Councilmember deHaan commended the West Alameda Business Association (WABA) for taking the lead; urged the Park Street Business Association (PSBA) to adopt a similar guideline.

REGULAR AGENDA ITEMS

(05-118) Public Hearing to consider an Appeal of the Planning Board's denial of Major Design Review DR04-0082 and Variance V04-0014 to permit the conversion of an existing detached garage to be used as a dwelling unit. The site is located at 1608 Santa Clara Avenue within the R-4, Neighborhood Residential District. Applicant/Appellant: Michele and Frank Mulligan; and

(05-118A) Resolution No. 13823, "Upholding the Planning Board's denial of Major Design Review DR04-0082 and Variance V04-0014 to

permit the conversion of an existing detached garage to be used as a dwelling unit." Adopted.

The Supervising Planner gave a brief oral report.

Councilmember Matarrese inquired whether the Planning Board made a recommendation to Council, to which the Supervising Planner responded that the Planning staff denied the variances.

Mayor Johnson opened the public portion of the Hearing.

Proponents (In favor of Appeal): Frank Mulligan, Appellant (submitted handout); Jeff Kassow, Alameda; Walter DeCalle, Alameda; Christina Locklear, Alameda.

Opponent (Not in favor of Appeal): Leo Beaulieu, Alameda.

After Mr. Mulligan's comments, Councilmember deHaan inquired how Mr. Mulligan obtained the referenced photo album, to which Mr. Mulligan responded that the trustee provided him with the album.

Councilmember deHaan inquired whether the permit provided to Council is the one on file with the Planning Department, to which the Supervising Planner responded in the affirmative; stated the "SFD" notation on the permit is for the use of the lot.

Vice Mayor Gilmore inquired whether there was anything at the location before the structure was built.

Mr. Mulligan responded that he did not know; stated there may have been a garage, but no driveway.

Councilmember deHaan inquired whether there are any records that indicate that there was a previous garage, to which the Supervising Planner responded there was a permit for demolition of a garage dated April 1984; a second permit for a new garage was issued in June of 1984 and finalized in October 1984.

Councilmember Matarrese inquired whether the City issued plumbing and mechanical permits which would be necessary for a kitchen and a bathroom, to which the Supervising Planner responded in the negative.

Mayor Johnson stated that a dwelling unit could not have been built on a zero property line in 1984; inquired whether building a dwelling unit with a garage permit would have been legal in 1984, to which the Supervising Planner responded in the negative; the permit would lack the rear and side set back and separation between

dwelling unit requirements.

There being no further speakers, Mayor Johnson closed the public portion of the Hearing.

Mayor Johnson stated that the Planning Board was concerned that the structure did not meet building codes; inquired what would happen if Council denied the variances.

The Supervising Planner responded that the property owner would need to re-institute the garage use that was approved in 1984, extend the driveway to the garage, remove the French doors, install a garage door, and remove the kitchen and bathroom.

Mayor Johnson inquired whether a garage could have a residential unit, to which the Supervising Planner responded in the negative.

Vice Mayor Gilmore stated the structure does not comply with the set backs for a dwelling unit; noted that garages are allowed to sit on two property lines; stated placing a dwelling unit on two property lines would never have been approved in 1984; that she has seen countless situations where people apply for a permit, the inspector finalizes the permit, and then plumbing and electrical are installed after the fact; she has a great deal of sympathy for the property owners, but approval of the appeal would send a message that the permitting process does not need to be followed.

Councilmember Matarrese inquired whether the appraisal form was in error, to which the Supervising Planner responded that she has not seen the appraisal form.

Councilmember Matarrese stated there might be safety factors involved because plumbing, electrical and mechanical permits were not obtained; that he has sympathy for the property owners; the real estate agent and appraiser are at fault.

Mayor Johnson stated that she also has sympathy for the property owners; Council would be very arbitrary to approve the construction after the fact.

Councilmember deHaan inquired whether the structure could stay in place as a legal garage.

The Supervising Planner responded in the affirmative; there may be some openings that are too close to the property lines and may need to be closed; some of the plumbing may need to come out.

Mayor Johnson inquired whether the external type plumbing would

have been permitted in 1984, to which the Supervising Planner responded that she did not know.

Councilmember Daysog stated that he wished the rules were otherwise; it is difficult to make things right for the property owners.

Vice Mayor Gilmore moved adoption of the resolution denying the appeal and upholding the decision of the Planning Board.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-119) Public Hearing to consider Zoning Text Amendment ZA05-0001 and Rezoning R05-0001 to create a Theater Overlay District and rezone certain properties to the Theater Overlay District; and

(05-119A) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-2 (Definitions); Amending Subsection 30-3.2 (Combining Districts); Adding a New Subsection 30-4.22 (Theater Combining District); and Reclassifying and Rezoning Certain Properties Within the City of Alameda to Include the Theater Combining District.

The Management Analyst provided a brief report.

Mayor Johnson opened the public portion of the Hearing.

Mayor Johnson stated that Melody Marr, Chamber of Commerce, submitted a letter stating that the Chamber is in favor of Zoning Text Amendment ZA05-0001 and Rezoning R05-0001.

Proponent (In favor of ordinance): Robb Ratto, PSBA.

Opponent (Not in favor of ordinance): Gary McAffe, Alameda.

After Mr. Ratto's comments, Mayor Johnson inquired whether the proposed ordinance would have an impact on the Central Cinema, to which the Management Analyst responded in the negative; stated the proposed ordinance pertains to multi-screen cinemas.

There being no further speakers, Mayor Johnson closed the public portion of the Hearing.

Councilmember Daysog moved introduction of the ordinance.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-120) Public Hearing to consider a Citywide Zoning Text Amendment ZA04-0001 to review and revise Alameda Municipal Code Section 30-6, Sign Regulations, clarifying current regulations and establishing internal consistency with various Alameda Municipal Code sections with the primary focus on regulations pertaining to Window Signs; and

(05-120A) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Section 30-2 (Definitions) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) by Adding a New Section 30-6 (Sign Regulations) to Chapter XXX (Development Regulations). Introduced.

The Supervising Planner gave a brief report.

Councilmember Daysog inquired whether a medical office not in a commercial area is allowed to have a temporary sign, to which the Supervising Planner responded A-frame and I-frame signs are not permitted anywhere in Alameda.

Councilmember deHaan inquired whether the proposed ordinance was for all retail areas, to which the Supervising Planner responded in the affirmative.

Mayor Johnson opened the public portion of the Hearing.

Proponents: (In favor of ordinance): Robb Ratto, PSBA; and Sherri Stieg, WABA.

Vice Mayor Gilmore stated that the City does not have the resources to walk down each business district street to enforce the ordinance; the City is counting on and expecting PSBA and WABA to help clean up the signage in town.

Councilmember deHaan stated that some of the retailers are going to have a rude awakening; enforcement of the proposed ordinance needs to be implemented fairly.

Councilmember Daysog inquired whether the proposed ordinance is primarily for signs facing outward and not inside signs, to which the Supervising Planner responded that signs which are part of the interior décor would not be considered to be a sign.

Councilmember deHaan stated that tonight is monumental; thanked staff for all of their work.

Vice Mayor Gilmore moved introduction of the ordinance.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-121) Recommendation to approve the Theatre Design Guidelines and presentation of conceptual parking structure designs.

The Development Services Director provided a brief summary.

Mayor Johnson inquired how wide the sidewalks are on Central Avenue, to which the Development Services Director responded 14 feet; stated sidewalks on Oak Street are 8 feet.

Mayor Johnson stated that the design guidelines provide a sense of what the community would like to see when the architects come back with actual plans.

Councilmember Matarrese inquired about the timeline.

The Development Services Director responded the design guidelines could be attached to the Disposition and Development Agreement (DDA); the DDA should be finalized within the next couple of days for public display and a hearing in April; noted that the public hearing notice for a DDA is extensive and lengthy.

Councilmember Matarrese inquired the impact of not including the guidelines in the DDA.

The Development Services Director responded having the guidelines as part of the DDA gives it more importance.

The City Attorney stated that the DDA does not have to have any attachments.

Mayor Johnson stated if the guidelines are not adopted tonight, they would not be attached to the DDA or the DDA would be delayed.

The Development Services Director stated Council could adopt the guidelines separately.

Mayor Johnson stated that she would prefer to have the guidelines attached; that she is prepared to go forward with the approval of the design guidelines.

Councilmember deHaan stated that the scope of the architect's desires should not be limited; inquired whether there would be two or three different design concepts.

The Development Services Director responded that the developer would start with conceptual plans, submit an application to the Planning Department, and the design review process would begin; she is not expecting multiple concepts to be submitted.

Mayor Johnson noted that Melody Marr, Chamber of Commerce, submitted a letter stating that the Chamber is in favor of the Theatre Design Guidelines.

Richard W. Rutter, Alameda, stated that it appears there will be a traffic impact on Oak Street; suggested considering making Oak Street be increased to 60 feet wide.

Nick Petrulakis, Alameda, urged moving forward with the guidelines.

Scott Brady, Alameda, stated that he was concerned that the guidelines are overly specific in terms of architectural design elements.

Christopher Buckley, AAPS, stated that the preliminary review is a good idea; outlined AAPS's suggested changes to the guidelines.

Chuck Millar, Alameda, stated that he was concerned with the proposed contemporary design.

Mayor Johnson requested the Development Services Director to respond to the design issue.

The Development Services Director stated the design was done by an environmental group to study the mass and make a judgment about whether or not it fits within the contexts and is consistent with the Secretary of Interior standards; stated there has been a lot of community concern because of the image the environmental planner created to do basic evaluation.

Councilmember Daysog inquired whether a review by the State was required to determine impacts on surrounding historical areas.

The Development Services Director responded a review would not be needed if Federal funding were not used.

Councilmember Daysog stated the Historical Advisory Board and other interested groups should have input.

Elizabeth Krase, AAPS, submitted a handout; stated that she welcomes the rehabilitation of the historic theatre with reservations; she is concerned with the projected overhangs.

Councilmember Daysog inquired whether the projected overhangs would overwhelm the historic theatre, to which Ms. Krase responded in the affirmative.

Kevin Frederick, Alameda, stated that no consideration, thought, or respect has been given to Alameda; noted the proposed design is bizarre.

Mayor Johnson inquired whether there have been any designs from the architect, to which the Development Services Director responded in the negative.

Mayor Johnson inquired whether designs were presented at last night's Planning Board meeting, to which the Development Services Director responded the developer had his architect work on some of the concepts to clarify questions.

Jon Spangler, Alameda, stated the community is reacting to the mass of the structure; noted overhangs would block the views down the street.

Debbie George, Alameda, stated the theatre is positive for Alameda; urged moving forward.

Al Wright, Alameda, stated that he was extremely happy to have a theatre in Alameda soon.

Robb Ratto, PSBA, stated the public has had ample opportunity to provide input; urged the process not be delayed and adoption of the guidelines.

Councilmember Matarrese stated that he would like to take out the word "contemporary" from the guidelines; he does not see the need to give that type of general guidance; without the Cineplex, the theatre would rot in place; stated nothing is lost by taking out the word "contemporary."

Mayor Johnson concurred with Councilmember Matarrese; inquired whether omitting the word "contemporary" has any negative impact, to which the Development Services Director responded in the negative.

Councilmember Matarrese stated there is ample time to massage the design once the true design is presented; that he can accept the design guidelines.

Councilmember deHaan stated that he is the strongest advocate of the theatre; inquired whether the retail spaces would be part of

the developer's operation.

The Development Services Director responded that there are two projects: 1) the potential historic restoration project conducted by the City, and 2) the multiplex and retail stores, which would be constructed and owned by the developer; the developer would own and lease the retail spaces.

Councilmember deHaan stated the mass must remain for the theatre; inquired whether there would be the ability to design without the protrusions by removing retail square footage.

The Acting City Manager responded that staff would need to review the matter and return to Council.

Councilmember deHaan stated that he does not believe that there is any need for signage other than the renovated marquee; noted that vertical accent latitude should be left to the architect.

Vice Mayor Gilmore stated that the community and staff have taken their best shot at the design guidelines; design guidelines are not going to be perfect, especially in the abstract.

Vice Mayor Gilmore moved approval of the staff recommendation with removing the word "contemporary" from the Theatre Design Guidelines.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Daysog stated that he sees the design guidelines as a platform that allows more discussions involving members of the Historical Advisory Board; the guidelines do not lock the City into bad design; there is a major challenge ahead in trying to have an economically viable theatre which minimizes the projection problem at the same time.

Mayor Johnson stated that the Council has been working on the theatre project for years and has been very supportive; thanked staff for all of their work.

On the call for the question, the motion carried by unanimous voice vote - 5.

Vice Mayor Gilmore requested that the Transportation Commission review traffic issues on Oak Street and provide Council with recommendations as soon as possible.

ORAL COMMUNICATIONS, NON-AGENDA

(05-122) Mina Talebzadeh, Alameda, requested the City to recognize Spring Equinox as a day of peace and harmony.

Mayor Johnson requested Ms. Talebzadeh to provide language for a proclamation.

Gina Mariani was not present but wanted to be on record in support of Ms. Talebzadeh's request.

(05-123) Michael J. McGhee, Volunteer Veterans Advocate, submitted a letter; stated that the City currently offers services for veterans but there is no office or City official assigned to coordinate the services; urged the City to appoint a committee to investigate veterans' services, to clarify the City's jurisdiction over veteran programs, and create a City office of Veterans Affairs for benefits.

(05-124) Jon Spangler, Alameda, stated that he and Audrey Lord Hausman, co-founder of Pedestrian Friendly Alameda, will be training at a conference in April; stated that it is wonderful to see the Alameda Police Department enforcing pedestrian rights and safety.

(05-125) Al Wright, Alameda, stated that on several occasions the American flag has been improperly displayed in front of City buildings; flags flown at the Police Department are not consistent with City Hall; stated that he objects to the American flag being flown at half mast to honor local citizens; stated that all flags on City property should be in compliance with when the President of the United States directs the flag to be flown at half mast; requested that Council direct staff to issue appropriate directives to all departments.

COUNCIL COMMUNICATIONS

(05-126) Councilmember Daysog stated that the Chipman Middle School Drum and Flag Corps requested a City flag for display in parades.

(05-127) Councilmember Daysog stated there is a professor at the University of California, Berkeley who is moving forward with an initiative regarding urban casinos; requested staff to analyze the initiative and provide a recommendation as to whether Council should support the initiative.

(05-128) Councilmember deHaan requested that the Transportation Commission and Public Works Department provide the Council with

information on transportation remediation efforts at Bayport.

Councilmember Daysog noted data indicates that transportation solutions have to be citywide.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the Regular Meeting at 10:25 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY - - - MARCH 15, 2005 - - - 6:35 P.M.

Chair Johnson convened the Special Meeting at 6:35 p.m.

Roll Call - Present: Commissioners Daysog, deHaan, Gilmore,
Matarrese and Chair Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-011) Conference with Legal Counsel - Existing Litigation; Name
of case: Community Improvement Commission v. Rite Aid Corporation,
Thrifty, Payless, Inc.

Following the Closed Session, the Special Meeting was reconvened
and Chair Johnson announced that the Commission obtained briefing
from Legal Counsel and instruction was given.

Adjournment

There being no further business, Chair Johnson adjourned the
Special Meeting at 7:00 p.m.

Respectfully submitted,

Lara Weisiger
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown
Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -MARCH 15, 2005- -7:00 P.M.

Mayor Johnson convened the Special Meeting at 7:00 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-108) Conference with Real Property Negotiator - Property: 2900 Main Street; Negotiating Parties: City of Alameda and Alameda Gateway, Ltd; Under Negotiation: Price and terms.

Following the Closed Session, the Special Meeting was reconvened and Mayor Johnson announced that the Council obtained briefing and instructions were given to Real Property negotiators.

Adjournment

There being no further business, Mayor Johnson adjourned the Special Meeting at 7:25 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY - - - MARCH 15, 2005 - - - 7:27 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:30 p.m.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
deHaan, Gilmore, Matarrese and
Mayor/Chair Johnson - 5.

Absent: None.

CONSENT CALENDAR

Councilmember/Commissioner Matarrese moved approval of the Consent Calendar.

Councilmember/Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*05-109CC/*05-012CIC) Recommendation to approve a form of Assignment and Assumption Agreement between University Avenue Housing and Alameda Point Collaborative. Approved.

AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 7:31 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -MARCH 15, 2005- -7:34 P.M.

Mayor Johnson convened the Special Meeting at 10:30 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-129) Public Employee Performance Evaluation - Title: City
Manager.

Following the Closed Session, the Special Meeting was reconvened
and Mayor Johnson announced that the Council discussed the
performance of the City Manager.

Adjournment

There being no further business, Mayor Johnson adjourned the
Special Meeting at 11:00 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown
Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -MARCH 15, 2005- -7:35 P.M.

Mayor Johnson convened the Special Meeting at 11:00 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-130) Public Employment - Title: City Manager.

Following the Closed Session, the Special Meeting was reconvened and Mayor Johnson announced that the Council discussed recruitment of the new City Manager.

Adjournment

There being no further business, Mayor Johnson adjourned the Special Meeting at 11:45 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.